

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**AXCESS GLOBAL SCIENCES, LLC, a  
Utah Limited Liability Company,**

**Plaintiff,**

**vs.**

**OZCAN GROUP, INC., *dba* CONTEXT  
HEALTH PRODUCTS, a Texas  
Corporation, SAMI OZCAN, an  
individual, and HALIL IBRAHIM  
ARSLAN, an individual**

**Defendants.**

**CIVIL ACTION NO: 4:23-cv-2704**

**TRADEMARK INFRINGEMENT,  
FALSE ADVERTISING, PATENT  
INFRINGEMENT, AND  
DECEPTIVE TRADE PRACTICES**

**JURY TRIAL DEMANDED**

**COMPLAINT FOR TRADEMARK INFRINGEMENT, FALSE ADVERTISING,  
PATENT INFRINGEMENT, AND DECEPTIVE TRADE PRACTICES**

Plaintiff Axcess Global Sciences, LLC (“AGS” or “Plaintiff”) complains and alleges the following against Defendants Ozcan Group, Inc. *dba* Context Health Products (“CHP”), Sami Ozcan (“Ozcan”), and Halil Ibrahim Arslan (“Arslan”) (collectively, “Defendants”).

**NATURE OF THE CLAIMS**

1. This is an action for trademark infringement and federal false advertising under Sections 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114(a)-(b) and 1125(a)-(c), patent infringement under 35 U.S.C. §§ 1, *et seq*, and state deceptive trade practices under the Texas Deceptive Trade Practices Act, Tex. Bus. & Com. Code § 17.46 (2015).

2. Plaintiff is the owner of the registered trademark, goBHB® (Reg. No. 5261845). *See* Ex. A. The goBHB® trademark is applied to products sold by the Plaintiff and its licensees that contain Plaintiff’s goBHB®-branded BHB ingredients.

3. Plaintiff is also the owner of U.S. Pat. Nos. 11,241,403 (the “’403 Patent”) and

11,020,362 (the “’362 Patent”). *See* Exs. B and C. The Asserted Patents include claims for unique formulations of the health supplement Beta-Hydroxybutyrate (“BHB”).

4. Defendants make, use, advertise, offer for sale, sell, and/or import a product called Context BHB Keto Salts Supplement (“Context BHB”):



<https://contexthealthproducts.com/products/context-bhb-keto-salts-60-count>

5. On their website and on Amazon.com, Defendants’ advertising and product information state that Context BHB contains (1) “Magnesium Beta Hydroxybutyrate (goBHB<sup>®</sup> capsule),” (2) “Calcium Beta-Hydroxybutyrate (goBHB<sup>®</sup> capsule),” and (3) “Sodium Beta-Hydroxybutyrate (goBHB<sup>®</sup> capsule).” This formulation infringes at least representative claim 1 of the ’403 Patent and representative claim 1 of the ’362 Patent:

<b>Supplement Facts</b>		
<b>Serving Size: 2 Capsules</b>		
<b>Servings Per Container: 30</b>		
<b>Amount Per Serving %DV</b>		
Calcium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	62mg	6%
Magnesium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	32mg	8%
Sodium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	10mg	<2%
<b>Go BHB® Proprietary Blend</b>	<b>800mg</b>	<b>**</b>
Magnesium Beta Hydroxybutyrate (goBHB®capsule), Calcium Beta Hydroxybutyrate (goBHB®capsule), Sodium Beta Hydroxybutyrate (goBHB®capsule)		
<b>** Daily Value (DV) not established</b>		

Other Ingredients: Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide.

<https://contexthealthproducts.com/products/context-bhb-keto-salts-60-count>

<https://www.amazon.ae/dp/B08NWDYYHP>

6. In addition to infringing the Asserted Patents by making, using, selling, offering for sale, and/or importing Context BHB, Defendants falsely advertise that Context BHB contains a “GoBHB® Proprietary Blend” of goBHB®-branded ingredients and use Defendants’ logo and goBHB® trademark in nearly every Context BHB product photo on Defendants’ website and Amazon.com listing, without authorization from Plaintiff:

<b>Supplement Facts</b>		
<b>Serving Size: 2 Capsules</b>		
<b>Servings Per Container: 30</b>		
<b>Amount Per Serving %DV</b>		
Calcium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	62mg	6%
Magnesium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	32mg	8%
Sodium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	10mg	<2%
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<https://www.amazon.ae/dp/B08NWDYYHP>

**Suggested Use:**  
As a dietary supplement, take two (2) capsules once to three times daily. For best results take 20-30 min before a meal with an 8oz. glass of water or as directed by your healthcare professional.

**CAUTION:** Do not exceed recommended dose. Pregnant or nursing mothers, children under the age of 18, and individuals with a known medical condition should consult a physician before using this or any dietary supplement.

**GMP** **MADE IN USA** **FDA**

\* These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure or prevent any disease.

Lot # and Expiration Date  
Printed on bottom of Bottle.

**CONTEXT**

**Keto BHB**

**SALTS**

**goBHB**

**60 CAPSULES**

**DIETARY SUPPLEMENT**

Supports Healthy Ketosis\*  
Assists Healthy Weight Loss\*  
Helps Give Energy Drive\*

**Supplement Facts**  
Serving Size: 2 Capsules  
Servings Per Container: 30

	Amount Per Serving	%DV
Calcium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	62mg	6%
Magnesium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	32mg	8%
Sodium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	10mg	<2%
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Magnesium Beta Hydroxybutyrate (goBHB®capsule), Calcium Beta Hydroxybutyrate (goBHB®capsule), Sodium Beta Hydroxybutyrate (goBHB®capsule)		

\*\* Daily Value (DV) not established

Other Ingredients: Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide.

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3627 Grand Promenade Ln | Stafford, TX 77477  
(800)-407-2030

goBHB® is a registered trademark under exclusive global distribution by Compound Solutions, Inc.

KEEP OUT OF REACH OF CHILDREN. DO NOT USE IF SAFETY SEAL IS DAMAGED OR MISSING.

<https://contexthealthproducts.com/products/context-bhb-keto-salts-60-count>

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7. Plaintiff is a direct competitor of Defendants in the dietary supplements market and specifically for BHB and ketone supplements.
8. Plaintiff has suffered harm from Defendants' unauthorized use of the goBHB®

trademark in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff's public perception and goodwill.

9. Plaintiff has suffered harm from Defendant falsely advertising that Context BHB contains Plaintiff's patented BHB formula in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff's public perception and goodwill.

10. Plaintiff has suffered harm from Defendant's infringement of the Asserted Patents in the form of lost profits.

11. Plaintiff's immediate, irreparable injuries have no adequate remedy at law, and Plaintiff is entitled to injunctive relief and up to three times its actual damages and/or an award of Defendant's profits, as well as costs and reasonable attorney fees.

### **THE PARTIES**

12. Plaintiff AGS is a Utah limited liability company with a principal place of business at 2157 Lincoln Street, Salt Lake City, UT 84106.

13. On information and belief, Defendant Ozcan is a Texas resident with a place of residence in this District at 214 Promenade Estates Ln, Stafford, TX 77477.

14. On information and belief, Defendant Arslan is a Texas resident with a place of residence in this District at 6927 Morales Way, Rosenberg, TX 77471

15. On information and belief, Defendant CHP is a Texas corporation with a registered mailing address at 1112 Staffordshire Road, Suite C, Stafford, TX 77477, a registered office address at 5750 Royalton St, Suite K, Houston, TX 77081, and an additional mailing address at 3627 Grand Promenade, Stafford, TX 77477. On information and belief, Defendant Ozcan is the registered agent, founder, and owner of Defendant CHP. Also on information and belief, Defendant Arslan is the registered president and director of Defendant CHP.

16. On information and belief, Defendants are, at least for purposes of the misconduct alleged herein, alter-egos of each other. On information and belief, Defendants Ozcan and Arslan use Defendant CHP in an attempt to shield themselves from liability for knowingly and willfully falsely advertising Context BHB, for infringing Plaintiff's patents and trademarks, and for engaging in the other misconduct alleged herein. For the foregoing reasons, the Defendants are effectively a single entity for purposes of the misconduct alleged herein.

### **JURISDICTION**

17. This matter arises under the laws of the United States, including under the Lanham Act, 15 U.S.C. §§ 1114(a)-(b) and 1125(a)-(c), and under the patent laws of the United States, 35 U.S.C. §§ 1, *et seq.* Thus, the Court has federal question subject matter jurisdiction under 28 U.S.C. § 1331. In addition, the Court has supplemental jurisdiction over Plaintiff's state claims for unlawful deceptive trade practices pursuant to 28 U.S.C. § 1367.

18. The Court has personal jurisdiction over the Defendants, and venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b), at least because each of the Defendants reside in this District, have regular and established places of business in this District, have employees in this District, and have committed a substantial portion of the infringements and other misdeeds giving rise to this action from within this District.

### **BACKGROUND**

19. Plaintiff is a leader and innovator in the field of exogenous ketones and ketogenic precursor supplement products. These products aid the body in producing and sustaining elevated levels of ketone bodies in the blood and assist in the body's transition into nutritional ketosis. Plaintiff has patent rights in many unique formulations of BHB, including those claimed in the Asserted Patents.



20. Defendants make, use, advertise, offer for sale, and/or sell Context BHB with a formulation that infringes Plaintiff's exclusive rights in the Asserted Patents.

21. Plaintiff also sells and licenses products under the trademark goBHB® that contain the same formulation of goBHB® protected by the Asserted Patents. The goBHB® mark is widely known in the supplement, nutrition, and fitness industries.

22. Defendants falsely advertise that Context BHB contains goBHB®-branded ingredients and use the goBHB® mark in advertising without authorization from Plaintiff:

<b>Supplement Facts</b>		
<b>Serving Size: 2 Capsules</b>		
<b>Servings Per Container: 30</b>		
<b>Amount Per Serving %DV</b>		
Calcium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	62mg	6%
Magnesium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	32mg	8%
Sodium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	10mg	<2%
<b>Go BHB® Proprietary Blend</b>	<b>800mg</b>	<b>**</b>
Magnesium Beta Hydroxybutyrate (goBHB®capsule), Calcium Beta Hydroxybutyrate (goBHB®capsule), Sodium Beta Hydroxybutyrate (goBHB®capsule)		
<b>** Daily Value (DV) not established</b>		
Other Ingredients: Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide.		

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<https://www.amazon.ae/dp/B08NWDYYHP>

23. Defendant's infringements and other tortious conduct alleged herein have injured Plaintiff. Plaintiff's immediate, irreparable injuries have no adequate remedy at law, and Plaintiff is entitled to injunctive relief and up to three times its actual damages and/or an award of Defendant's profits, as well as costs and reasonable attorney fees.



**FIRST CLAIM FOR RELIEF**  
**Trademark Infringement**  
**15 U.S.C. §§ 1114(a), 1125(a)**

24. Plaintiff incorporates and realleges each and every allegation of the preceding paragraphs as if fully set forth herein.

25. Plaintiff owns all rights in the federally registered goBHB® trademark (U.S. Trademark Reg. No. 5261845). *See* Ex. A.

26. Plaintiff is the owner of the goBHB® trademark by assignment.

27. Defendants use the goBHB® trademark on their products and advertising without authorization from Plaintiff, as shown below:

<b>Supplement Facts</b>		
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**CAUTION:** Do not exceed recommended dose. Pregnant or nursing mothers, children under the age of 18, and individuals with a known medical condition should consult a physician before using this or any dietary supplement.

**GMP** **MADE IN USA** **FDA** REGISTERED FACILITY

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Printed on bottom of Bottle.

V3R0

**CONTEXT**  
**Keto BHB**  
**SALTS**

**60**  
CAPSULES

**DIETARY SUPPLEMENT**

Supports Healthy Ketosis\*  
Assists Healthy Weight Loss\*  
Helps Give Energy Drive\*

**goBHB**  
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28. Defendants' unauthorized use of the goBHB® mark is likely to confuse consumers, to cause mistake among consumers, and to deceive consumers into believing that Context BHB contains Plaintiff's branded ingredients, at least because Defendants use the goBHB® mark in exactly the same manner, via the same trade channels, and on the same kinds of products, as Plaintiff and its licensees, and because Plaintiff's goBHB® mark is distinctive and famous in the health, wellness, and supplements industries.

29. Defendants' trademark infringement is willful at least because Defendants (1) repeatedly use the full mark, exactly as registered, on its product label and advertising, (2) use the mark for the precise class of goods for which it is registered (*see* Ex. A ("nutritional or dietary supplements in the nature of powder consisting of a beta hydroxybutyrate salt of either calcium, sodium, potassium or magnesium for use in food and dietary supplements to increase blood ketone levels")), and (3) even use the trademark registration symbol, "®", knowing that they do not have authorization from Plaintiff to use the mark.

30. Plaintiff has suffered harm from Defendants' unauthorized use of the goBHB® trademark in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff's public perception and goodwill.

**SECOND CLAIM FOR RELIEF**  
**False Advertising and Unfair Competition**  
**15 U.S.C. § 1125(a)**

31. Plaintiff incorporates and realleges each and every allegation of the preceding paragraphs as if fully set forth herein.

32. Plaintiff owns all rights in the federally registered goBHB® trademark (U.S. Trademark Reg. No. 5261845). *See* Ex. A.

33. Plaintiff is the owner of the goBHB® trademark by assignment.

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Lot # and Expiration Date  
Printed on  
bottom of Bottle.

V3R0

**CONTEXT**  
**Keto BHB**  
**SALTS**

**goBHB**  
CAPSULE

Supports Healthy Ketosis\*  
Assists Healthy Weight Loss\*  
Helps Give Energy Drive\*

**60**  
CAPSULES

**DIETARY**  
**SUPPLEMENT**

**Supplement Facts**  
**Serving Size: 2 Capsules**  
**Servings Per Container: 30**

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\*\* Daily Value (DV) not established

Other Ingredients: Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide.

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35. Defendants' unauthorized use of the goBHB® mark is likely to confuse consumers, to cause mistake among consumers, and to deceive consumers into believing that Context BHB contains Plaintiff's branded ingredients, at least because Defendants use the goBHB® mark in exactly the same manner, via the same trade channels, and on the same kinds of products, as Plaintiff and its licensees, and because Plaintiff's goBHB® mark is distinctive and famous in the health, wellness, and supplements industries.

36. Defendants' false advertising and unfair competition is willful at least because Defendants (1) repeatedly use the full mark, exactly as registered, on its product label and advertising, (2) use the mark for the precise class of goods for which it is registered (*see* Ex. A ("nutritional or dietary supplements in the nature of powder consisting of a beta hydroxybutyrate salt of either calcium, sodium, potassium or magnesium for use in food and dietary supplements to increase blood ketone levels")), and (3) even use the trademark registration symbol, "®", knowing that they do not have authorization from Plaintiff to use the mark.



37. Plaintiff has suffered harm from Defendants' unfair competition in the form of lost profits, diverted sales and market share, and the weakening of Plaintiff's public perception and goodwill.

**THIRD CLAIM FOR RELIEF**  
**Texas Deceptive Trade Practices Act**  
**Tex. Bus. & Com. Code § 17.46 (2015)**

38. Plaintiff incorporates and realleges each and every allegation of the preceding paragraphs as if fully set forth herein.

39. Defendants' conduct as described herein concerning false advertising and trademark infringement constitutes unfair, false, and deceptive acts and practices pursuant to Tex. Bus. & Com. Code § 17.46 (2015).

40. By using the goBHB<sup>®</sup> mark on its products and advertising, Defendants falsely pass off their goods as those of Plaintiff.

41. By using the goBHB<sup>®</sup> mark on their products and advertising, Defendants cause confusion and misunderstanding as to the source, sponsorship, approval, and/or certification of Context BHB.

42. By using the goBHB<sup>®</sup> mark on their products and advertising, Defendants cause confusion and misunderstanding as to as to an affiliation, connection, and/or association with Plaintiff.

43. By using the goBHB<sup>®</sup> mark on their products and advertising, Defendants falsely represent that Context BHB has sponsorship, approval, characteristics, ingredients, uses, and/or benefits which it does not have.

44. By using the goBHB<sup>®</sup> mark on their products and advertising, Defendants falsely represent that Context BHB is of a particular standard, quality, or grade, when it is of another.



45. By using the goBHB<sup>®</sup> mark on their products and advertising, Defendants falsely advertise Context BHB with intent not to sell it as advertised.

46. By using the goBHB<sup>®</sup> mark on their products and advertising, Defendants failed to disclose information concerning Context BHB which was known at the time of the transaction with a consumer, and such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

47. As a result of Defendants' unfair and deceptive trade practices, Plaintiff has suffered harm, including lost profits, diverted sales and market share, and the weakening of the public perception and goodwill of Plaintiff and its products.

**FOURTH CLAIM FOR RELIEF**  
**Infringement of the '403 Patent**  
**35 U.S.C. §§ 1, *et seq.***

48. Plaintiff incorporates and realleges each and every allegation of the preceding paragraphs as if fully set forth herein.

49. Plaintiff owns all rights in the '403 Patent.

50. The '403 Patent is valid, enforceable, and was issued in full compliance of the patent laws of the United States.

51. Plaintiff and its licensees have marked their products in accordance with 35 U.S.C. § 287(a).

52. Without license or authorization, Defendants make, use, offer for sale, sell, and/or import Context BHB containing compounds that infringe the '403 Patent.

53. On February 8, 2022, the '403 Patent, titled "Beta-hydroxybutyrate mixed salt compositions and methods of use" was duly and legally issued. A true and correct copy of the

'403 Patent is attached as Exhibit B.

54. Defendants make, use, offer for sale, sell, import, and/or distribute Context BHB, which practices the invention of the '403 Patent, without authorization from Plaintiff.

55. Context BHB infringes at least claim 1 of the '403 Patent in the manner described below:

1. A composition for increasing ketone level in a subject, comprising:  
a plurality of beta-hydroxybutyrate salts comprised of:

at least one beta-hydroxybutyrate salt selected from:  
calcium beta-hydroxybutyrate; and  
magnesium beta-hydroxybutyrate; and  
at least one other beta-hydroxybutyrate salt selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate;  
magnesium beta-hydroxybutyrate; and  
amino acid salts of beta-hydroxybutyrate,

wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,

wherein the composition is in solid and/or powder form,

wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.

Our BHB keto salt supplement is made up of magnesium, calcium, and sodium beta-hydroxybutyrate. BHB salt supplements are popular among keto dieters to provide their bodies with a boost of ketones. . . .

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<https://www.amazon.ae/dp/B08NWDYYHP>

<b>Supplement Facts</b>		
<b>Serving Size: 2 Capsules</b>		
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Magnesium Beta Hydroxybutyrate (goBHB®capsule), Calcium Beta Hydroxybutyrate (goBHB®capsule), Sodium Beta Hydroxybutyrate (goBHB®capsule)		
<b>** Daily Value (DV) not established</b>		

Other Ingredients: Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide.

<https://contexthealthproducts.com/products/context-bhb-keto-salts-60-count>

<https://www.amazon.ae/dp/B08NWDYYHP>

[https://www.facebook.com/contexthealthproducts/photos\\_by](https://www.facebook.com/contexthealthproducts/photos_by)

<b>Supplement Facts</b>		
<b>Serving Size: 2 Capsules</b>		
<b>Servings Per Container: 30</b>		
<b>Amount Per Serving %DV</b>		
Calcium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	62mg	6%
Magnesium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	32mg	8%
Sodium (Beta Hydroxybutyrate)(As Go BHB® Capsules)	10mg	<2%
<b>Go BHB® Proprietary Blend</b>	<b>800mg</b>	<b>**</b>
Magnesium Beta Hydroxybutyrate (goBHB®capsule), Calcium Beta Hydroxybutyrate (goBHB®capsule), Sodium Beta Hydroxybutyrate (goBHB®capsule)		
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(Based on the ingredients listed, Context BHB is sold as an encapsulated powder.)

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56. Defendants have directly infringed claim 1 of the '403 Patent in the United States by making, using, offering for sale, selling, and/or importing Context BHB in violation of 35 U.S.C. § 271(a). As such, Defendants are liable for infringement of the '403 Patent under 35 U.S.C. § 271(a).

57. Defendants have indirectly infringed the '403 Patent in this District and elsewhere in the United States by inducing others to make, use, offer for sale, and/or sell Context BHB in violation of 35 U.S.C. § 271(b).

58. Defendants' infringement of the '403 Patent is knowing and willful and this case is exceptional, as evidenced by that fact that Defendants use Plaintiff's registered goBHB® mark without authorization, and further use the precise, patented formula of BHB protected by the '403 Patent that is found in legitimate products using goBHB®-branded ingredients.

59. Plaintiff has suffered harm as a result of Defendants' infringement of the '403 Patent, including in the form of lost profits and diverted sales and market share. Plaintiff is therefore entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount to be proven at trial.

**FOURTH CLAIM FOR RELIEF**  
**Infringement of the '362 Patent**  
**35 U.S.C. §§ 1, *et seq.***

60. Plaintiff incorporates and realleges each and every allegation of the preceding paragraphs as if fully set forth herein.

61. Plaintiff owns all rights in the '362 Patent.

62. The '362 Patent is valid, enforceable, and was issued in full compliance of the patent laws of the United States.

63. Plaintiff and its licensees have marked their products in accordance with 35 U.S.C.

§ 287(a).

64. Without license or authorization, Defendants make, use, offer for sale, sell, and/or import Context BHB containing compounds that infringe the '362 Patent.

65. On June 1, 2021, the '362 Patent, titled "Beta-hydroxybutyrate mixed salt compositions and methods of use" was duly and legally issued. A true and correct copy of the '362 Patent is attached as Exhibit C.

66. AGS is the owner of the '362 Patent.

67. Defendants make, use, offer for sale, sell, import, and/or distribute Context BHB, which practices the invention of the '362 Patent, without authorization from Plaintiff.

68. Context BHB infringes at least claim 1 of the '362 Patent in the manner described below:

**1. A composition for increasing ketone level in a subject, comprising:**

at least three beta-hydroxybutyrate salts selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate; and  
magnesium beta-hydroxybutyrate;

wherein the composition is in solid and/or powder form,

wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.

Our BHB keto salt supplement is made up of magnesium, calcium, and sodium beta-hydroxybutyrate. BHB salt supplements are popular among keto dieters to provide their bodies with a boost of ketones. . . .

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<b>** Daily Value (DV) not established</b>		
Other Ingredients: Gelatin, Rice Flour, Magnesium Stearate, Silicon Dioxide.		

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69. Defendants have directly infringed claim 1 of the '362 Patent in the United States by making, using, offering for sale, selling, and/or importing Context BHB in violation of 35 U.S.C. § 271(a). As such, Defendants are liable for infringement of the '362 Patent under 35 U.S.C. § 271(a).

70. Defendants have indirectly infringed the '362 Patent in this District and elsewhere in the United States by inducing others to make, use, offer for sale, and/or sell Context BHB in violation of 35 U.S.C. § 271(b).

71. Defendants' infringement of the '403 Patent is knowing and willful and this case is exceptional, as evidenced by that fact that Defendants use Plaintiff's registered goBHB® mark without authorization, and further use the precise, patented formula of BHB protected by the '362 Patent that is found in legitimate products using goBHB®-branded ingredients.

72. Plaintiff has suffered harm as a result of Defendants' infringement of the '362

Patent, including in the form of lost profits and diverted sales and market share. Plaintiff is therefore entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount to be proven at trial.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff respectfully prays that the Court enter judgment in its favor and award the following relief against Defendants:

- A. A judgment that Defendants infringed the Asserted Patents directly and indirectly by inducement;
- B. A judgment that Defendants infringed Plaintiff's rights in the goBHB<sup>®</sup> mark;
- C. A judgment that Defendants falsely advertised Context BHB;
- D. A judgment that Defendants committed deceptive trade practices;
- E. A finding that the Defendants' conduct alleged herein was willful and that this case is exceptional;
- F. An order and judgment enjoining Defendants and their officers, directors, employees, agents, licensees, representatives, affiliates, related companies, servants, successors and assigns, and any and all persons acting in privity or in concert with any of them, from infringing Plaintiff's patents or trademarks, from committing deceptive trade practices, or from falsely advertising any products;
- G. An award of actual damages in an amount to be determined at trial for patent infringement, trademark infringement, false advertising, and unfair and deceptive trade practices.
- H. Disgorgement of Defendants' profits associated with Defendants' trademark infringement and false advertising;
- I. Plaintiff's costs and attorneys' fees;

- J. A judgment for treble damages and other punitive damages;
- K. An order and judgment for Defendants to promulgate corrective advertising by the same media and with the same distribution and frequency as the false advertising for Context BHB;
- L. Any such other and further relief as the Court deems proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a jury trial on all matters triable to a jury.

DATED: July 24, 2023.

Respectfully submitted,

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*Attorneys for Plaintiff Axxess Global Sciences, LLC*